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Via Electronic Filing
Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

MD Docket No. 07-51

Dear Ms. Dortch:

This letter is in response to the letter you received from Mr. Mitchell F Brecher, Counsel for OpenBand Multimedia dated May 20, 2008 related to Exclusive Service Contract for Provision of Video Services in Multiple Dwelling Units and Other Real Estate Developments. I felt compelled to respond to many of the comments Mr. Brecher made as I find them to be "spinning the truth" to benefit OpenBand and since it is doubtful that the Media Bureau would actually hold a meeting with the residents of Broadlands or other communities served by OpenBand this seemed my only recourse.

First let me say that from a service level perspective I can not complain about the quality of service in general related to the services provided by OpenBand. All three of the services they provide, in general, have met my expectations of what I believed I was signing onto when I purchased a home in the Southern Walk section of Broadlands. Unfortunately this is the only thing that Mr. Brecher and I agree on. With regards to the arguments put forth in Mr. Brecher's letters about Price and Terms of the Contract I submit the following comments.

Price

It is stated that customers of Openband are protected by the Contract between OpenBand and the HOA from high rates and unreasonable price increases. In fact the contract does state that the price paid for any service shall be 10% below the cost of comparable service providers in Loudoun County and that our average price paid has only increase 1.1% per year since

2002. Said a different way, OpenBand's rates have increased 5+ percent over the last 5 years when the trend in industry has been a reduction of costs over the same period of time.

It is stated that a competitive analysis is done of the prices of other services providers for comparable services and that the documentation is provided to the HOA. What isn't stated is that the comparison is NOT up for discussion and that the governing body that would approve/reject such analysis (Southern Walk HOA) is controlled by the developer who also happens to have a business relationship with OpenBand. It also does not compare "bundled" services provided by these service providers. As everyone knows you are going to pay more for "al la carte" service selections versus bundled services - therefore their comparable price analysis is already overpriced to begin with. It also does not include satellite networks which have clearly be the driver putting downward pressure on the cable industry over the years.

Mr. Brecher also states that we, as residents, are pointing to short-term or promotional pricing in making the argument we are paying too much. First, I would argue that short-term/promotional pricing should be included since if I chose to leave another provider (e.g. DirecTV) after the promotional pricing was up, that provider would in all likelihood grant me continued promotional pricing and in some cases make the deal even better. Second, I did an analysis of my bill specifically where I used the Post-Promotional pricing costs for the competitors. As you can see below I am clearly paying more that the 10% below comparable that I was promised.

Pricing Analysis

Assumes 4 TVs (including cost for boxes), Phone with Unlimited Long Distance in US and calling features such as Voicemail, Call Waiting, Caller ID, and Internet.

OpenBand Price

Basic services paid through HOA	\$149
Additional (boxes and Long Distance Package)	\$ 50
Total Monthly	\$199

Bundled Service Comparison

(All prices are POST promotional pricing)

Verizon FIOS - Triple Freedom(Regular)	\$172
Verizon FIOS - Triple Freedom(Bundle Savings)	\$139
Comcast Triple Play	\$177

All 3 Services with NO Bundling Savings

Verizon Phone	\$ 50
DirecTV	\$ 83

Verizon FIOS
Total All 3

\$ 68
\$201

As you can clearly see when Comparing OpenBand to the Bundled packages, the cost clearly is above the competition, not the stated 10% below guarantee and even using individual pricing for the 3 services while basically even in cost - it should be 10% below the three.

Terms of the Contract

First of all the terms of the Contract were between OpenBand and the Developer (who has an interest in OpenBand) and NOT the homeowners of the HOA. Second since the analysis above clearly shows that I am not getting a 10% below comparable pricing I would submit that OpenBand is actually in breach of the contract no "fulfilling" their end of it.

Did I believe it was a great deal when I was sold cutting edge technology at 10% below markets rates? Yes. But technology was catching up to Openband in 2004 and one would assume that their bill would be the 10% below cost out there.

Was I forced to accept the OpenBand contract as part of the purchase of my home? Yes. Considering I was purchasing in a fast moving housing market the terms of the OpenBand contract were not exactly on my mind - plus I had been told I would save 10% versus the market rates.

Did I ever have a copy of the Contract provided to me? NO - Had I known I was not going to be able to make a competitive argument against OpenBand for 75+ years I would have definitely thought twice about needing to review the terms. However, either you went with OpenBand as part of your housing purchase or you didn't get the house.

It is also stated that a small minority of the community is attempting to eliminate a contract that we feel is unfair and that has provided cutting edge technology to the residents and that we as residents knew what we were getting into. I would submit that had OpenBand done a little homework on their own they would have realized that future competition would be lowering prices for services similar in nature to those they are providing. Oh wait - they did do that - that is why we are LOCKED into a 75 year contract that clearly favors OpenBand. Again, to me it is not about the term as much as it is about the cost.

Conclusion

Again, I am happy with the services provided by OpenBand but I would urge the commission to push companies such as OpenBand to either provide a true and honest comparison and a real 10% below market price or I would ask that you continue along the path of breaking up these agreements.

Competition only helps the consumer at the end of the day. The Monopoly created by OpenBand and the Developer has clearly disadvantaged those of us who actually pay attention to what we are paying every month.

Respectfully submitted,

C. Brian Beahm
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